

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT

U.S. DISTRICT COURT
DISTRICT OF VERMONT
FILED

2020 JUL 14 PM 12:10

PATRICIA KANE-LEE,

Petitioner,

v.

WARDEN OF RIKERS ISLAND,

Respondent.

)
)
)
)
)
)
)
)
)
)

Case No. 5:20-cv-36

CLERK
BY 
DEPUTY CLERK

**ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND
RECOMMENDATION AND ORDERING PETITIONER TO COMPLY
WITH LOCAL RULE 11(c) AND THE MARCH 20, 2020 ORDER TO SHOW CAUSE**

(Doc. 7)

In January 2020, Petitioner Patricia Kane-Lee, representing herself, filed a Petition for a Writ of Habeas Corpus under 28 U.S.C. § 2254 in the United States District Court for the Southern District of New York. (Doc. 2.) On March 5, 2020, the Petition was transferred to this court under 28 U.S.C. § 1404(a). (Doc. 3.) On March 20, 2020, United States Magistrate Judge John Conroy issued an Order to Show Cause requiring Petitioner to show cause why her § 2254 Petition should not be dismissed as moot because Petitioner was no longer in custody and therefore this court lacks jurisdiction to consider the Petition. (Doc. 5.) On April 2, 2020, the copy of the March 20 Order to Show Cause sent to Petitioner was returned as undeliverable. (Doc. 6.)

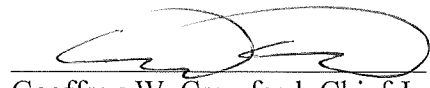
On May 11, 2020, the magistrate judge issued a Report and Recommendation recommending that the court issue an Order directing Petitioner to provide an accurate and current address and to comply with the March 20 Order to Show Cause within twenty days. (Doc. 7.) Under Federal Rule of Civil Procedure 72, Petitioner's objection was due by May 29, 2020. On June 2, 2020, the copy of the May 11 Report and Recommendation was returned as undeliverable. (Doc. 8.) As of the date of this Order, no further filings have been received.

A district judge must make a *de novo* determination of those portions of a magistrate judge's report and recommendation to which an objection is made. Fed. R. Civ. P. 72(b)(3); 28 U.S.C. § 636(b)(1); *Cullen v. United States*, 194 F.3d 401, 405 (2d Cir. 1999). The district judge may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1); *accord Cullen*, 194 F.3d at 405.

In the Report and Recommendation, the magistrate judge determined that Petitioner's failure to follow the requirements of Local Rule 11(c) to keep the court apprised of any change of address left the court with no way of communicating with her. (Doc. 7 at 3.) He further noted that her Petition may be moot as explained in the March 20 Order to Show Cause. Accordingly, he recommended that the court issue an Order directing Petitioner to (1) comply with the requirements of Local Rule 11(c) and provide in writing an accurate and current address to the Clerk of Court and (2) comply with the March 20, 2020 Order to Show Cause within twenty days. (*Id.*).

After careful review of the file and the Report and Recommendation, this court ADOPTS Magistrate Judge Conroy's recommendations in full for the reasons stated in the Report (Doc. 7). Petitioner is hereby ORDERED to (1) provide in writing an accurate and current address to the Clerk of Court and (2) show cause why her Petition should not be dismissed as moot. Petitioner shall respond on or before August 4, 2020, and is warned that her failure to respond shall result in dismissal of the case under Federal Rule of Civil Procedure 41(b) which authorizes dismissal of an action when "the plaintiff fails to prosecute or to comply with these rules or a court order." Fed. R. Civ. P. 41(b).

Dated at Rutland, in the District of Vermont, this 14th day of July 2020.


Geoffrey W. Crawford, Chief Judge
United States District Court